



King County Board of Ethics
900 Fourth Avenue, Suite 860
Bank of California Building
Seattle, WA 98164 MS BOC-IA-0860
(206) 296-1586 FAX (206) 205-0725
board.ethics@metrokc.gov
www.metrokc.gov/ethics/

KING COUNTY BOARD OF ETHICS MEETING NOTICE

When: Monday, May 21, 2001, at 4:30 p.m.

Where: Bank of California Building
900 Fourth Avenue (Fourth Avenue and Marion Street) Seattle
5th floor conference room, northwest corner of the building

AGENDA

1. ***Approval of Agenda***
2. ***Approval of Meeting Minutes of April 16, 2001.***
3. ***Announcements.*** General information.
4. ***Office of Citizen Complaints—Ombudsman.*** Guest Duncan Fowler, Ombudsman.
5. ***Post Employment Amendment.*** Review comments; adopt for transmittal to Executive.
6. ***Ethics Training for Council Staff.*** Board discussion.
7. ***Meetings with Elected Officials.*** Report from board members.
 - Meeting with executive regarding reorganization
 - Meeting with councilmembers
8. ***Staff Report***
 - Financial Disclosure Program—status
 - Annual Board Reception—status
 - Filing Orders Amendment—status
9. ***Acknowledgment of Carl Johansen***

cc: Ron Sims, King County Executive
King County Councilmembers
Duncan Fowler, Director—Ombudsman, Office of Citizen Complaints
James J. Buck, Acting Director, DIAS
Donald J. Porter, Senior Deputy Prosecuting Attorney

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ALTERNATE FORMATS AVAILABLE

Minutes of the May 21, 2001, Meeting of the King County Board of Ethics

The May 21, 2001, meeting of the King County Board of Ethics was called to order by Chair Price Spratlen at 4:28 p.m. Board members in attendance were:

Lois Price Spratlen, Ph.D., Chair
Margaret T. Gordon, Ph.D.
Lembhard G. Howell, Esq.

Rev. Paul F. Pruitt had an excused absence
Mr. Roland H. Carlson had an excused absence

Others in attendance:

Ms. Catherine A. Clemens, Administrator, King County Board of Ethics
Mr. James J. Buck, Acting Director, Department of Information and Administrative Services
Mr. Donald J. Porter, Senior Deputy Prosecuting Attorney
Mr. John Chelminiak, Chief of Staff, King County Council

1. *Proposed Agenda.* Following the addition of item #9, Appreciation for Carl Johansen, Mr. Howell moved and Dr. Gordon seconded that the board approve the proposed agenda. The board unanimously adopted the motion.

Chair Price Spratlen asked for introductions from those present.

2. *Approval of Meeting Minutes of April 16, 2001.* With minor corrections, Mr. Howell moved and Dr. Gordon seconded that the board approve the April 16, 2001 meeting minutes. The board unanimously adopted the motion.

3. *Announcements.* Ms. Clemens announced that Dr. Price Spratlen will be speaking on Wednesday, May 30, 2001, at the University of Washington Bookstore, in connection with her recently published book, *African American Registered Nurses In Seattle: The Struggle for Opportunity and Success*. Ms. Clemens acknowledged this significant accomplishment and invited all board members to join her at the event. Next, Ms. Clemens distributed the updated contact sheet for board members and staff. Finally, she announced Mr. Johansen's retirement celebration to be held on Thursday, June 7, 2001, 4:30 p.m., at an off-site location.

4. *Office of Citizen Complaints—Ombudsman.* Mr. Fowler presented an overview of the OCC, including who it serves; what issues are commonly addressed; and how it conducts complaints, investigations and recommendations. Dr. Price Spratlen asked if the OCC was affected by the reorganization. No, because the OCC is an independent agency of the county council and the reorganization primarily affects the executive branch. Mr. Howell asked if the OCC accepts complaints such as excessive force by the Sheriff's Office. Yes, but the OCC usually refers them to the Sheriff's Office internal affairs so the agency will be able to hold itself accountable. However, the OCC will investigate if further attention is deemed necessary. Mr. Howell asked if the OCC accepted anonymous complaints. Yes, but the OCC does not like them because they can be used to embarrass or harass individuals. Ms. Clemens thanked Mr. Fowler for including an article from the ethics office in the OCC Annual Report. Mr. Fowler explained that the OCC, ethics office, and civil rights office conduct training as a group about four times a year. The information sessions are held jointly since all offices affect employees county-wide. Chair Price Spratlen thanked Mr. Fowler for this presentation and the valuable information he provided.

Mr. Chelminiak arrived at 4:52 p.m.

5. *Post Employment Amendment.* Ms. Clemens reviewed recent activity related to the proposed amendment. At its March 19th meeting, the board approved the proposed post employment provisions under the Code of Ethics and directed the administrator to seek comments from affected county employees and other interested parties. Following that directive, Ms. Clemens provided notice to all county employees via the HUM email message system, the county executive policy group, citizen groups, past Charter review commission members, former ethics board members, and other ethics agencies both local and national. The office received 12 responses, which were representational of the notice groups. Mr. Porter addressed the comments with the board. Following deliberation and discussion, the board determined to eliminate the last sentence in section B. in the amendment and to add the words “members of boards, commissions, committees or other multi-member bodies” in appropriate sentences to section G. The board also directed the administrator and counsel to investigate if there are any exempt boards or commissions and if so, to make the appropriate mention in the amendment. Mr. Howell moved to accept the deletion of the last sentence in section B and the additional wording “members of boards, commissions, committees and other multi-member bodies” to the title and body of section G; Dr. Gordon seconded the motion and the motion passed unanimously. Following discussion regarding other comments, but making no further changes, Mr. Howell moved to accept the proposed amendment to the post employment provisions under the Code of Ethics and to direct the administrator and counsel to prepare and deliver to Mr. Buck the necessary transmittal documents to be forwarded to the executive for action; Dr. Gordon seconded the motion and the motion passed unanimously. Chair Price Spratlen voiced the board’s recognition and appreciation of the work of Mr. Carl Johansen, former board counsel, Mr. Porter and Ms. Clemens for their work to bring the amendment to this point.

6. *Ethics Training for Council Staff.* Ms. Clemens briefly outlined the issue of acceptance of gifts by council staff and the communication that has occurred among the board, administrator and council staff. Chair Price Spratlen asked Mr. Porter to comment. Mr. Porter stated that he had reviewed the Code of Ethics and past advisory opinions regarding receipt of gifts and acceptance of light refreshment while conducting county official business. Based on this review, he gave his opinion that the acceptance of the gift certificate for coffee by a council staff member from a lobbyist is a violation of the code. Chair Price Spratlen agreed that the code and opinions made it clear. Acceptance of any gift from those doing business with the county is prohibited. Mr. Porter said that the amount of the gift certificate, \$3.00, was distracting from the principle. According to Mr. Porter, there is no general de minimis exception that allows acceptance of apparently insignificant gifts. The exception, articulated by the board in an advisory opinion, allows acceptance of light refreshments in a business setting and is inapplicable to this situation. Chair Price Spratlen stated that this puts the issue into perspective; it is not the amount of a gift that is at issue, but the prohibited act itself. Mr. Chelminiak stated that the code also allowed de minimis acceptance of food at events. He stated that council employees would not like to hear that the board believes they are able to be bought. Mr. Fowler stated that he attends many meetings in the community at which individuals wish to provide him with food and drink and he feels it is rude not to accept. He is embarrassed when he must say that he would like to pay for his meal himself. Chair Price Spratlen acknowledged that food is an important part of any culture, but county employees and elected officials may not accept gifts and that we need to keep those standards. Dr. Gordon stated that if someone is giving gifts, it is done for a purpose. Entities do not set aside a budget for such gifts without a reason. Mr. Fowler and Chair Price Spratlen stated they agreed with Mr. Porter’s interpretation.

Ms. Clemens noted that there are three important advisory opinions that clearly deal with these issues and all are based firmly on the code: first, employees may not accept gifts from those doing business or seeking to do business, unless the gift is \$20 or less for a bona fide, non-recurring, ceremonial occasion; second, de minimis refreshment may be

accepted during the course of business meetings, with de minimis meaning the equivalent of coffee and a doughnut, but not a meal; and third, while attending events hosted by those doing business or seeking to do business with the county, employees must pay for light refreshment by leaving \$5.00, or the fair market value of more costly food or entertainment.

Mr. Chelminiak asked if he could now assume that the acceptance of the gift from a lobbyist is a violation of the code. The board stated yes. Mr. Chelminiak stated this interpretation is very hard from an employee's standpoint and that he disagreed with a strict interpretation of the code. He stated that employees are here to make the code resemble the real world and the whole discussion of this small gift was ludicrous. He stated his employers are incredulous that the issue was being discussed. Mr. Howell stated that until the code was changed, he hoped all council staff would be encouraged to follow the code. Mr. Chelminiak stated that the board should recognize how distressing it is for an employee to be told they are violating the code.

Ms. Clemens summarized the process by which disclosure forms are reviewed. When any form shows an irregularity in reporting, she contacts the employee by phone for the purpose of clarifying the information and to offer educational information to help prevent violations or to bring any real violations to the employee's attention. The information is presented in an informal manner and no ethics violations are ever filed with the Ombudsman. Only when the employee's response indicates denial or disagreement with the code is the matter ever brought to the attention of a supervisor. That was the case in the instant situation. Ms. Clemens noted that in 1996, the state auditor found the disclosure program to be out of compliance with the law and one of the findings was that irregularities in the disclosure forms were never properly investigated. Ms. Clemens stated that she now reviews each form to ensure compliance with this finding. Ms. Clemens also stated that the fundamental reason behind the prohibition on receiving gifts from contractors, lobbyists, etc., is to ensure public confidence in government that all transactions will be fair and impartial. Mr. Howell asked if our law conformed to other statutes in the county. Ms. Clemens stated yes, but some jurisdictions, such as the City of Seattle, allowed that certain gifts, such as flower or candy, might be accepted if they were placed in an area frequented by the public. With no further comment, Chair Price Spratlen thanked everyone for his or her participation in the discussion.

7. Meetings with Elected Officials. Chair Price Spratlen briefed the board on her meeting with the executive attended by Mr. Sims, Ms. Sheryl Whitney, Mr. Carlson and herself. First, they expressed to Mr. Sims and Ms. Whitney that the Board of Ethics should be separate and apart from other agencies and should not be joined with an unrelated agency to create the Office of Civil Rights and Ethics. Second, they have concerns that the administrator would be reporting to the manager of that office. Both office location and reporting relationships should be in the executive's office with the CAO or his deputy. When they left the meeting, the organizational structure to which they objected was still in place in the proposed ordinance. Chair Price Spratlen further reported that she had met with Councilmember Gossett but her meeting with Councilmember Pullen had been rescheduled a number of times. When meeting with Councilmember Gossett, the Chair had given him the same talking points given to the executive with a description of other ethics agency organizational structures throughout the county. Mr. Howell asked Mr. Chelminiak of any progress regarding the nominations of Mr. Carlson and Rev. Pruitt. Mr. Chelminiak responded that there is an oddity in the code that allows the executive to reject council nominations and that had happened in the case of the two nominations in 1999. Chair Price Spratlen encouraged all members to meet with the councilmembers they had identified as soon as possible. Dr. Gordon moved that board members move forward with these plans and keep the executive informed of their actions by letter; Mr. Howell seconded the motion and the motion passed unanimously.

Mr. Buck left the meeting at 6:35 p.m.

8. *Staff Report.* Ms. Clemens briefed the board. Financial Disclosure Program. Ms. Clemens informed the board that as of this day, only three employees out of 1,927 had not yet filed and only 13 out of 464 board/commission members had not filed. She would prepare the final report to the executive and council by June 4, 2001. Annual Board Reception. Ms. Clemens reported that invitations to the reception had been sent in early May and follow up calls would be made this week and next. Filing Orders Amendment. Ms. Clemens informed the board that the executive had forwarded the amendment to the council for action.

Mr. Porter and Mr. Chelminiak left the meeting at 6:41 p.m.

9. *Appreciation for Mr. Johansen.* The board discussed an appropriate gift for Mr. Johansen to present either at the annual reception or retirement celebration, both to be held on the same day.

Mr. Howell moved and Dr. Gordon seconded a motion to adjourn the meeting. The board unanimously approved the motion and the meeting was adjourned at 6:48 p.m.

Approved this 18th day of June, 2001, by the King County Board of Ethics.

Signed for the Board: _____
Dr. Lois Price Spratlen, Chair